

CITY COUNCIL AGENDA

APRIL 1, 2003

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
TERRY O. GREGORY
DAVID D. CORTESE
JUDY CHIRCO
PAT DANDO, VICE MAYOR

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.ci.san-jose.ca.us/cty_clk/agenda.htm

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
10:32 a.m.- Closed Session, Room 600, City Hall
Absent – Council Members: None.

1:36 p.m. - Regular Session, Council Chambers, City Hall
Absent – Council Members: None.

7:07 p.m. - Public Hearings, Council Chambers, City Hall
Absent – Council Members: None.
- **Invocation (District 4)**
Bill Olson from the San José Stage Company delivered a performance as the “April Fool” in honor of April Fool’s Day.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
Item 10.1 was recommended to return to the Making Government Better Committee, Item 11.2 was continued to 4/15/03, and the Orders of the Day were approved.

1 CEREMONIAL ITEMS

- 1.1** Presentation of a proclamation proclaiming April 2003 as Earthquake Preparedness Month. (Emergency Services)
Mayor Gonzales presented a proclamation proclaiming April 2003 as Earthquake Preparedness Month to John Jimenez, who accepted the proclamation in the absence of Director of Emergency Services Frances Edwards-Winslow.

1 CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to Liz Neves for her leadership as the Community Coordinator for the Adopt-A-Park Program. (Parks, Recreation and Neighborhood Services)
Mayor Gonzales, joined at the podium by Director of Parks, Recreation & Neighborhood Services Sara Hensley, presented a commendation to Liz Neves for her outstanding contributions as Community Coordinator of the Adopt-A-Park Program, which empowers residents to sustain high quality parks in their neighborhoods.
- 1.3 Presentation of a commendation to Archbishop Mitty High School Girls' Varsity Basketball team for winning the Northern California Division 1 Basketball Title. (Mayor)
(Rules Committee referral 3/26/03)
Mayor Gonzales and Council Member LeZotte presented a commendation to the Archbishop Mitty High School Girl's Varsity Basketball team for winning the Northern California Division 1 Basketball Title and their great accomplishments throughout their undefeated season. Coach Sue Phillips and Assistant Coach Joe Guerra accepted the commendation and thanked the Mayor and Council for their support.
- 1.4 Presentation of a commendation to Mr. Christopher Ulrich for his outstanding contributions to our community. (Mayor/Dando)
(Rules Committee referral 3/26/03)
Mayor Gonzales, joined at the podium by Vice Mayor Dando, presented a commendation to Christopher Ulrich, winner of the Prudential "Spirit of Community" Award and for his outstanding contributions to the San Jose community. Christopher Ulrich accepted his commendation in honor of the Safe Ride program and their participants.

2 CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

Recommendation: Approval of City Council Minutes for:

- (a) Regular meeting of June 25, 2002
- (b) Joint City Council/Redevelopment Agency Board/San José Financing Authority meeting of June 25, 2002
- (c) Joint City Council/Redevelopment Agency Board meeting of June 25, 2002

Approved.

2 CONSENT CALENDAR

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 26845 – Amends Chapter 2.08 of Title 2 of the San José Municipal Code by adding Section 2.08.1065 to provide compensation for the Civil Service Commission member and the public member of the Board of Administration for the Federated City Employees Retirement System.

Ordinance No. 26845 adopted.

- (b) ORD. NO. 26846 – Amends Chapter 3.28 of Title 3 of the San José Municipal Code by amending Section 3.28.1250 to update the medical examination procedures for disability retirement applications and by amending Section 3.28.1280 to clarify the calculation of service-connected disability retirement allowances in the Federated City Employees Retirement System.

Ordinance No. 26846 adopted.

- (c) ORD. NO. 26852 – Rezones certain real property situated at the northeast corner of N. First and E. Julian Streets to A(PD) Planned Development Zoning District. PDC 02-077

Ordinance No. 26852 adopted.

- (d) ORD. NO. 26853 - Rezones certain real property situated at the south side of Murphy Avenue, approximately 400 feet easterly of Oakland Road, from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC 02-098

Ordinance No. 26853 adopted.

- (e) ORD. NO. 26854 - Rezones certain real property situated at the northerly terminus of Silence Drive. PDC 02-096

Ordinance No. 26854 adopted.

- (f) ORD. NO. 26855 - Rezones certain real property situated at the east side of South Cypress Avenue, approximately 300 feet northerly of Adra Avenue (392 South Cypress Avenue) to A(PD) Planned Development Zoning District. PDC 02-106

Ordinance No. 26855 adopted.

- (g) ORD. NO. 26856 - Rezones certain real property situated at the southwest corner of South First and Sutter Streets to CP-Commercial Pedestrian Zoning District. C 03-008

Ordinance No. 26856 adopted.

- (h) ORD. NO. 26857 - Prezones certain real property situated at the west side of Henry Avenue, approximately 380 feet southerly of Stevens Creek Boulevard (333 S. Henry Avenue), from County to R-1-8 Residence Zoning District. C 03-006

Ordinance No. 26587 adopted.

2 CONSENT CALENDAR

2.3 Approval of a ground lease for the construction and operation of a new Fixed Base Operation on the southwest side of the Airport.

Recommendation: Approval of a ground lease with ACM Aviation, LLC (ACM) for the construction and operation of a new Fixed Base Operation on the southwest side of Norman Y. Mineta San José International Airport, for a 30 year term with one 10 year option, with the first year's interim construction rent commencing at notice to proceed, in the amount of \$86,339, and in the second year of construction in the amount of \$172,679, and subsequent annual rents in the amount of \$345,359, subject to annual Consumer Price Index increases, and subject to increase by appraisal every 5 years during the term of the lease. CEQA: Resolution No. 67380, PP 00-12-180. (Airport)

Deferred to 4/15/03.

2.4 Approval of an agreement for artwork for the Camden Community Center.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Michael Stutz, artist, to fabricate and install an artwork for the Camden Community Center in an amount not to exceed \$124,695. CEQA: Exempt, PP02-07-183. Council District 9. (Conventions, Arts and Entertainment)

Resolution No. 71465 adopted.

2.5 Approval of an agreement for the Safe School/Healthy Students Initiative.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with the East Side Union High School District increasing the amount by \$40,000 for the Safe School/Healthy Students Initiative subgrant to the City, for a total amount of \$727,030, with no change to the agreement term, and authorizing the City Manager to negotiate and execute grant agreements with service providers to provide services to at-risk youth, increasing the total amount by \$40,000, from \$380,000 to \$420,000.

Resolution No. 71466 adopted.

- (b) Adoption of amendments to the appropriation ordinance and current funding sources resolution in the General Fund to do the following:
- (1) Increase the revenue estimate for Revenue from the Federal Government by \$40,000.
 - (2) Increase the Citywide appropriation for the San Jose BEST-Safe School Initiative by \$40,000.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Ordinance No. 26860 adopted.

Resolution No. 71467 adopted.

2 CONSENT CALENDAR

2.6 Adoption of a resolution approving annexation of Monterey Park No. 106.

Recommendation: Adoption of a resolution authorizing the reorganization of territory designated as Monterey Park No. 106, which involves the annexation to the City of San José of 7.79 acres of land, located at the northeast corner of Highway 101 and Hellyer Avenue, and the detachment of the same from the Central Fire Protection District. CEQA: Exempt, Monterey Park No. 106. Council District 8. (Planning, Building, and Code Enforcement)

Resolution No. 71468 adopted.

2.7 Approval to vacate a Public Service Easement on the east side of Baypointe Parkway, north of Rio Robles East.

Recommendation: Adoption of a resolution summarily vacating the 60-foot wide Public Service Easement lying in Lot 7, Tract 9235, located on the east side of Baypointe Parkway north of Rio Robles East. Council District 4. (Public Works)

Resolution No. 71469 adopted.

2.8 Approval of agreements for conversion of overhead facilities to underground facilities within the In-Lieu Fee Underground Utility District at Saratoga/Moorpark (Rule 20B).

Recommendation: Approval of two agreements with Pacific Gas and Electric Company for conversion of overhead facilities to underground facilities within the In-Lieu Fee (Rule 20B) Underground Utility District at Saratoga/Moorpark in an amount not to exceed \$270,115.33. CEQA: Resolution No. 68667, PDO0-10-084. Council District 1. (Public Works)

Approved.

2.9 Approval of the purchase of land for the Edenvale Area Intersections Project, Cottle Road.

Recommendation: Adoption of a resolution authorizing the Director of Public Works to negotiate and execute (1) a purchase and sale agreement in the amount of \$27,200 with Edwards-Holmgren, a California general partnership, for the purchase of a strip of property located at 5801 Cottle Road, for the Edenvale Area Intersections Project, Cottle Road, and; (2) any additional documents necessary to complete the transaction. CEQA: Resolution Nos. 69699 and 70021 adopted. Council District 2. (Public Works) (Deferred from 3/25/03 – Item 2.11)

Resolution No. 71470 adopted.

2 CONSENT CALENDAR

2.10 Adoption of a resolution authorizing an amendment to the agreement with Housing & Development Software, LLC.

Recommendation: Adoption of a resolution authorizing:

- (a) The Director of General Services to execute a second amendment to the agreement to acquire and install a departmental database system with Housing & Development Software, LLC, to modify the scope of services, to extend the term to September 6, 2003, and to increase the total compensation by the previously approved contingency amount of \$50,000, for a total maximum compensation not to exceed \$191,800.
- (b) The Director of General Services to execute maintenance renewals for the ongoing software maintenance of the system with annual increases not to exceed 10% as stated in the original contract, without further Council action other than the appropriation of funding.

(Housing/General Services) (Deferred from 3/25/03 – Item 2.15)

Resolution No. 71471 adopted.

2.11 Approval to form an Independent Hearing Panel.

Recommendation: Adoption of a resolution authorizing the formation of a three member Independent Hearing Panel, consisting of a technical expert, a member of the public, and a member of the City Council. CEQA: Not a project. (Planning, Building and Code Enforcement)

[Rules Committee Referral 3/26/03]

Deferred to 4/8/03.

2.12 Approval of Mayor Gonzales' travel.

Recommendation:

- (a) Approval of Mayor Gonzales' travel to Sacramento, CA, for the California State Democratic Convention, March 14 and 15, 2003. Funding: Officeholder account.
- (b) Approval of Mayor Gonzales' travel to Washington D.C. on City business, April 7-10, 2003. Funding: Officeholder account.

(Mayor) (Rules Committee referral 3/26/03)

Approved.

2.13 Approval to submit a Code Enforcement Program Grant application.

Recommendation: Adoption of a resolution authorizing the City Manager to apply for and accept, if awarded, a \$300,000 Code Enforcement Grant Program ("CEGP") grant from the State of California Department of Housing and Community Development and authorizing the City Manager to negotiate and execute all documents with the commitment that the City will use, support, and maintain the assets acquired with grant funds for at least three years. CEQA: Not a project. (Planning, Building and Code Enforcement) (Orders of the Day)

Resolution No. 71472 adopted.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

None.

3.2 Report of the Rules Committee

Vice Mayor Dando, Chair

Meeting of March 12, 2003

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review March 25, 2003 Draft Agenda

The Committee recommended approval of the March 25, 2003 Redevelopment Agency agenda.

(2) Add New Items to March 18, 2003 Amended Agenda

There were no changes to the March 18, 2003 Redevelopment Agency agenda.

(3) Staff Reports Outstanding

The Committee noted and filed the Redevelopment Agency Liason's memorandum which stated there are no reports outstanding for the March 18, 2003 Redevelopment Agency meeting.

(c) Legislative Update

(1) State – **None filed.**

(2) Federal – **None filed.**

(d) Meeting Schedules

There were none.

(e) The Public Record

There was no Public Record filed.

(f) Boards, Commissions and Committees

There were none.

(g) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee

There were none.

(h) Administrative Reviews and Approval

There were none.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee –Meeting of March 12, 2003 (Cont'd)

- (i) Oral communications
None were presented.
- (j) Adjournment
(Deferred from 3/25/03 – Item 3.2)
The meeting adjourned at 2:10 P.M.

The Rules Committee Report and Actions of March 12, 2003 were accepted.

Report of the Rules Committee Vice Mayor Dando, Chair Meeting of March 19, 2003

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review April 1, 2003 Draft Agenda
The Committee recommended approval of the March 25, 2003 City Council agenda.
 - (2) Add New Items to March 25, 2003 Amended Agenda
The Committee recommended seven additions to the March 18, 2003 City Council agenda.
 - (3) List of Reports Outstanding
The Committee noted and filed the City Manager's report listing two staff reports outstanding for the March 18, 2003 Council meeting.
- (c) Legislative Update
 - (1) State—**None filed.**
 - (2) Federal
The Committee accepted reports on their recent trip to Washington, D.C. to attend the National League of Cities' 2003 Congressional City Conference from Vice Mayor Dando, Intergovernmental Relations Director Shotwell, and Assistant City Manager Linder.
- (d) Meeting Schedules
 - (1) Request to reschedule General Plan Hearings
The Committee recommended approval to reschedule the General Plan Hearing of June 3, 2003 to August 19, 2003.
- (e) The Public Record
The Committee noted and filed the Public Record.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee –Meeting of March 19, 2003 (Cont'd)

- (f) Boards, Commissions and Committees–**There were none.**
- (g) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee
 - (1) Request to place information about registered sex offenders in San José on City's web page
The Committee directed the Administration to return to Council with a proposed plan to implement Vice Mayor Dando's request to place information about registered sex offenders in San Jose on the City's web page.
- (h) Administrative Reviews and Approval
 - (1) Workload assessment for the issues raised in the "Discussion on Strengthening Boards and Commissions" which took place during the February 26, 2003 Building Strong Neighborhoods Committee meeting
The Committee directed Administration to report to Council in 90 days on how the City might strengthen its boards and commissions.
- (i) Oral communications
Peter Campbell asked for a reply to his request (Public Record – January 27, 2003 Rules Committee agenda) to place an issue on a Council agenda. Ross Signorino requested an explanation of the newly-formed Council Standing Committees and their respective areas of responsibility.
- (j) Adjournment
The meeting adjourned at 2:40 P.M.

The Rules Committee Report and Actions of March 19, 2003 were accepted with the exception of Item (g)(1), to which the Administration was directed to return to Council with a proposed plan to implement Vice Mayor Dando's request to place information about registered sex offenders in San Jose upon the City's web page, in compliance with State guidelines.

3.3 Report of the Making Government Work Better Committee Council Member Campos, Chair Meeting of March 12, 2003

- (a) Report on Park Ranger Staffing
The Committee accepted the staff report.
- (b) Report on CSA Performance Measurements
The Committee accepted the staff report with the direction that the next status report includes a future reporting schedule.

3 STRATEGIC SUPPORT SERVICES

3.3 Report of the Making Government Work Better Committee– Meeting of March 12, 2003 (Cont'd)

- (c) Single Audit Reports–**This item was deferred to April 9.**
- (d) Memorandum on Internal Controls–**This item was deferred to April 9.**
- (e) Audit follow-up on Prevailing and Living Wage
The Committee accepted the staff report and directed staff to return to the Committee with a draft amendment that includes the following:
 - (1) A representative from either the Labor Council or the Building Trades Council should be involved in drafting the amendment.**
 - (2) The Redevelopment Agency should support the monitoring efforts.****A second motion was made for the Redevelopment Agency to fund two full-time positions for the Public Works Office of Equality Assurance.**

SEE ITEM 10.1 FOR COUNCIL ACTION TAKEN

- (f) Call Center Handling of Service Requests Audit Report
Recommend Deferral to April 9. No Committee action taken. This item was deferred to April 9.
- (g) Santa Clara County Cities Association Audit Report
Recommend Deferral to April 9. No Committee action taken. This item was deferred to April 9.
- (h) Airport Neighborhood Services Group Audit Report
The Committee accepted the staff report.

SEE ITEM 3.6 FOR COUNCIL ACTION TAKEN

- (i) Fire Paramedics Staffing and Costs
The Committee accepted the staff report.
- (j) Oral petitions
None.
- (k) Adjournment
(Deferred from 3/25/03 – Item 3.4)
The Committee was adjourned at 4:45 P.M.

The Making Government Work Better Committee Report and Actions for March 12, 2003 were accepted with Item 3.3(e) heard under Item 10.1 and Item 3.3 (h) heard under Item 3.6, and Staff was directed to return to council with an updated report on Park Ranger staffing.

3 STRATEGIC SUPPORT SERVICES

3.4 Approval of a report back from the City Clerk on the methodology for performance measures and overview targets.

Recommendation: Approval of a report back from the City Clerk on the methodology for performance measures and overview targets. (Mayor)
(Deferred from 3/11/03 – Item 3.4)
Deferred to 4/15/03

3.5 Presentation and acceptance of the 2002 Employee Survey Results.

Recommendation: Presentation and acceptance of the 2002 Employee Survey Results. (City Manager's Office)

The 2002 Employee Survey Results were accepted and staff was directed to return to Council with a workplan that includes information and findings from survey results and focus group discussions, covering issues of employee childcare facilities and employee training course, and Staff to evaluate implementing the addition of other bilingual translation versions of the survey to enable a wider survey group, and Staff to clarify the distinction between the role of City management and the City Council within their focus groups.

3.6 Acceptance of the Airport Neighborhood Services Group Audit Report.

Recommendation: Acceptance of the Airport Neighborhood Services Group Audit Report.
[Making Government Work Better Committee referral 3/12/03 – Item 3.3(h)]
Deferred to 4/8/03.

3.7 Council adoption of a position opposing the release of Brian DeVries.

Recommendation: Council adoption of a position opposing the release of Brian DeVries. (Dando)
(Rules Committee referral 3/26/03)
Approved.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

**4.1 Report of the Building Strong Neighborhoods Committee – March 17, 2003
Council Member Chavez, Chair**

- (a) Strengthening Organizations and Developing Leaders
 - (1) NDC Update
 - (2) Staffing Issues
 - (3) Has SNI achieved the goal of developing leaders?
- The Committee accepted the reports.**

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – March 17, 2003 Council Member Chavez, Chair

- (b) Review of SNI Goals, Outcomes, Measurements, and Staffing
**The Committee accepted the report, with the following directive to staff:
(3) SNI Business Plan (draft) presentation to be presented highlighting the
issues raised by the Committee prior to going forward to Council.**
- (c) Policy on Prioritization of Trails Projects
**The Committee accepted the report, with the following directive to staff:
(1) Updated on “Policy on Prioritization of Trails Projects” be held at the
April 21 Building Strong Neighborhood Meeting. Presentation to include:**
 - a. Entire list of categories in terms of those categories presented.
 - b. Align the grant funding that is available to trails.
 - c. Identify challenges.
- (d) Oral petitions
None.
- (e) Adjournment
The Committee adjourned at 2:18 P.M.

The Building Strong Neighborhoods Committee Report and Actions for March 17, 2003 were accepted.

4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair No Report.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.3 Approval of various actions related to the formation of Community Facilities District No. 10 (Hassler – Silver Creek).

Recommendation: PUBLIC HEARING and approval of actions relating to the formation of Community Facilities District No. 10 (Hassler – Silver Creek) and the necessity to incur bond indebtedness:

- (a) Adoption of a resolution of formation of Community Facilities District No. 10 (Hassler – Silver Creek), authorizing the levy of a special tax therein, preliminarily establishing an appropriations limit therefore and submitting a levy of the special tax and the establishing of the appropriations limit to the qualified electors thereof.

Resolution No. 71473 adopted.

- (b) Adoption of a resolution determining the necessity to incur bonded indebtedness.

Resolution No. 71474 adopted.

- (c) Adoption of a resolution calling a special election.

Resolution No. 71475 adopted.

- (d) Adoption of a resolution declaring the results of the special election and directing the recording of the notice of the special tax lien.

Resolution No. 71476 adopted.

- (e) Adoption of an ordinance levying special taxes within Community Facilities District No. 10 (Hassler – Silver Creek).

CEQA: Resolution No. 64913, PP02-11-347. (Finance/Public Works)

Ordinance No. 26861 adopted.

4.4 Approval of various actions related to the Almaden Family Apartments.

Recommendation: Adoption of a resolution:

- (a) Approving a permanent loan of up to \$13,775,000 to Almaden Family Housing Partners, L. P., or its designated affiliate, for the development of the Almaden Family Apartments, a 225-unit family rental development located at 1525-1541 Almaden Road.

- (b) Finding that the use of Redevelopment funds for the project is of benefit to the Redevelopment Project Areas in San José.

CEQA: Negative Declaration, PDC98-089. Council District 7. (Housing)

(1) Recommend deferral to 4/15/03.

(2) Item 4.4 was heard by Council.

(3) Resolution No. 71477 adopted.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.5 Approval of fiscal actions related to the Housing and Homeless Fund.

Recommendation: Adoption of the following appropriation ordinance amendments in the Housing and Homeless Fund (440):

- (a) Decrease Ending Fund Balance by \$450,000.
 - (b) Increase Housing and Homeless Fund Projects Appropriation by \$450,000.
- CEQA: Not a Project. (Housing/City Manager's Office)

Ordinance No. 26862 adopted.

Staff was reminded to return to Council during the May Budget process in regards to the funding efforts of the homeless community.

4.6 Public Hearings on the Historical Property Contracts for 89 Pierce Avenue and the 5 Spot Drive-up Restaurant.

Recommendation: PUBLIC HEARINGS on the Historical Property Contracts for:

- (a) 89 Pierce Avenue, City Landmark No. HL01-144. (William A. and LaCynda L. Arvayo, Owner). CEQA: Exempt.
MA02-004 – District 3

Resolution No. 71478 adopted.

- (b) The 5 Spot Drive-up Restaurant, City Landmark No. HL02-121, located at 869 South First Street. (David Silva, Owner). CEQA: Exempt.
MA03-001 – District 3

(Planning, Building, and Code Enforcement)

Resolution No. 71479 adopted.

5 RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee – March 20, 2003

Council Member Yeager, Chair

- (a) Youth Commission Report
The Committee accepted the report, and agreed that the Youth Commission monthly report will be heard every other month.
- (b) Report on Implementation of Expanded Books for Little Hands Early Childhood Literacy Program
The Committee accepted the report.
- (c) After-School Program Report
 - (1) Homework Centers
The Committee accepted the Homework Center Program report, and agreed to continue discussion to the next meeting on April 10, 2003.

5 RECREATION & CULTURAL SERVICES

5.2 Report of the All Children Achieve Committee – March 20, 2003 (Cont'd)

- (c) After-School Program Report
(2) Safe Schools Initiative
The Committee accepted the update on Safe School Campus Initiative.
- (d) Teacher Housing/Teacher Retention Status Report
The Committee accepted the report.
- (e) Update on Joint-Use Agreements with School Districts, including City/School Collaborative
The Committee accepted the report with the directive to continue discussion and action to the next meeting of April 10, 2003.
- (f) Oral petitions
None.
- (g) Adjournment
The meeting was adjourned at 5:10 P.M.

The All Children Achieve Committee Report and Actions for March 20, 2003 were accepted and Staff was to report to Council the total budget amount of the “Books for Little Hands” program.

6 TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee Council Member Cortese, Chair

None.

6.2 Approval to execute open purchase orders for asphalt street repair materials.

Recommendation: Report on Request for Quotation (RFQ) and authorization for the Director of General Services to execute open purchase orders to the following vendors: Raisch Company (San José, CA) \$750,680, Granite Rock (San José, CA), \$741,618, and Reed & Graham (San José, CA) \$810,160. CEQA: Not a Project. (General Services)
Approved.

6.3 Public Hearing and approval of the report on the cost of sidewalk repairs.

Recommendation: PUBLIC HEARING and adoption of a resolution approving the Report of the Directors of Finance and Transportation on the cost of sidewalk repairs, confirming the assessments contained in the Report, and directing the recording of liens. CEQA: Not a Project. (Finance/Transportation)
Resolution No. 71480 adopted.

7 ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval and adoption of the Sustainable Energy Policy and FY 2003-04 Action Plan.

Recommendation:

- (a) Approval and adoption of the Sustainable Energy Policy and FY 2003-04 Action Plan.
- (b) Direction to staff to report on the implementation and achievement of the adopted policies and action plan on an annual basis.

CEQA: Not a Project. (Environmental Services)

Approved.

Staff was directed to return to Council with alternatives to reward City departments for their energy conservation efforts, and to add the Environmentally Preferable Procurement Policy within the Background portion of Appendix II in the FY2003-2004 Action Plan, and to bring forward any future issues on PUC surcharges for solar energy to the Rules Committee for review.

7.2 Public Hearing on approval of various actions related to the Bay Area Water Supply and Conservation Agency.

Recommendation: PUBLIC HEARING on:

- (a) Adoption of a resolution declaring the intentions of San José to form the Bay Area Water Supply and Conservation Agency (BAWSCA) and to be a member of BAWSCA once it has been formed.

Resolution No. 71481 adopted.

- (b) Appointment of District 4 Council Member Chuck Reed as the City's representative to BAWSCA.

CEQA: Not a Project. Council District 4. (Environmental Services)

Approved.

7.3 Approval of Reuse and Recycling Agreements.

Recommendation: Approval of Reuse and Recycling Agreements with the following non-profit organizations through June 30, 2003:

- (a) Goodwill Industries of Santa Clara County, in an amount not to exceed \$400,000.
- (b) The Salvation Army, in an amount not to exceed \$150,000.
- (c) St. Vincent de Paul Society, in an amount not to exceed \$25,000.
- (d) HOPE Services, in an amount not to exceed \$50,000.

CEQA: Not a Project. (Environmental Services)

The staff recommendation was approved with the addition that letters be sent to the non-profit organizations asking them to sign the City's standard non-discrimination provision which apply to other City contracts and Staff was directed to bring forward a draft ordinance amendment thru the Rules Committee process for Council consideration.

7 ENVIRONMENTAL & UTILITY SERVICES

7.4 Approval of various actions related to the San José Municipal Water System rates.

Recommendation: Authorize the City Manager to conduct a study of San José Municipal Water System rates and forward rate recommendations to the 2004-05 budget process.

CEQA: Not a Project. (City Manager's Office)

[Referred from 3/18/03 – Item 7.1]

Deferred to 4/15/03.

8 AVIATION SERVICES

8.1 Approval of various actions related to commercial paper notes for the Airport.

Recommendation:

- (a) Hold a TEFRA (Tax Equity and Fiscal Responsibility Act) hearing for the issuance of Series B (Alternative Minimum Tax or AMT) commercial paper notes under the existing commercial paper program established for the Norman Y. Mineta San José International Airport with a limit of \$100 million in order to fund costs associated with the implementation of the requirements under the Federal Aviation and Transportation Security Act (ATSA).

TEFRA hearing was held. There were no speakers on the issue.

- (b) Adoption of a resolution of the City Council authorizing the issuance of a combination of Series A, Series B, and Series C commercial paper notes under the existing commercial paper program established for the Norman Y. Mineta San José International Airport with an aggregate limit of \$100 million in order to fund costs associated with the implementation of the requirements under ATSA.

CEQA: Resolution No. 67380, PP02-12-376. (Airport/Finance)

Resolution No. 71482 adopted.

9 PUBLIC SAFETY SERVICES

9.1 Approval of an agreement for the purchase of an Automated Reporting System.

Recommendation: Approval of an agreement with Data911 Inc. (Alameda, CA) for the purchase of an Automated Reporting System (ARS) in the amount of \$810,912 which includes application software, Oracle Lite client software, training, installation, first year maintenance and tax. CEQA: Not a Project. (General Services)

(Deferred from 3/18/03 – Item 9.1)

Approved.

Staff was directed to return to Council with a progress report on this project.

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board was convened at 4:11 P.M to consider 10.1 in a Joint Session

10.1 Approval to enter into an agreement related to prevailing wage requirements.

Recommendation: Authorization for the City Manager and Executive Director to enter into an agreement for the Redevelopment Agency to provide reimbursement of expenditures to the Department of Public Works/Office of Equality Assurance for monitoring and enforcing prevailing wage requirements on all applicable Redevelopment Agency projects. CEQA: Not a project. (City Manager's Office/Redevelopment Agency)

[Making Government Work Better Committee referral 3/12/03 – Item 3.3(3)]

Dropped.

This item was referred to the Making Government Work Better Committee.

The Redevelopment Agency Board portion of the meeting was adjourned at 4:12 P.M.

- Closed Session Report
- Notice of City Engineer's Pending Decision on Final Maps
In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9403	Southeast corner of Berryessa Road and North 17 th Street	3	Son and Hai Nguyen	6 units	SFD	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

None.

- Open Forum—
 - (1) Deborah Grants spoke on societal issues.
 - (2) Ross Signorino spoke on branch library issues.

11 PUBLIC HEARINGS

(Heard by the City Council at 7:07 p.m.)

11.1 Approval of various actions related to the annexation of Franklin No. 49.

Recommendation: PUBLIC HEARING and adoption of a resolution initiating proceedings and setting a public hearing on May 6, 2003 at 7:00 p.m. for the reorganization of territory designated as Franklin No. 49 which involves the annexation to the City of San José of 3.8 gross acres of land located at the southeast corner of Monterey Road and Fehren Drive, and the detachment of the same from the appropriate special districts including: Santa Clara County Lighting Service Area, Central Fire Protection District, and County Service Area-1 (County Library Service Area). CEQA: Exempt, Franklin No. 49. Council District 7. (Planning, Building and Code Enforcement)

Resolution No. 71484 adopted.

11.2 Public Hearing on planned development rezoning of the property located at 890 South Winchester Boulevard.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southeast corner of South Winchester Boulevard and Neal Avenue (890 S. Winchester Blvd.), from CN Neighborhood Commercial District to A(PD) Planned Development Zoning District, to allow single-family attached residential uses (21 townhomes) on a 1.1 gross acre site. (Delta I LLC, Owner/Developer). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC 02-071- District 6

(Continued from 1/21/03 – Item 11.2 et al., and 3/18/03 – Item 11.4)

Continued to 4/15/03.

11 PUBLIC HEARINGS

11.3 Public Hearing on planned development rezoning of the property located at S. Third and E. William Streets.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the northeast corner of S. Third and E. William Streets, from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District, to allow a 10-bed emergency homeless shelter; a 10-bed residential service facility with two resident staff; a 4,500 square-foot social services agency; a 850 square-foot community center/classroom space; and five multi-family attached residential units on 0.4 gross acre. (City of San José Redevelopment Agency, Owner; Emergency Housing Consortium, Developer). CEQA: Resolution No. 68839. Director of Planning, Building and Code Enforcement recommends approval with the following conditions: (1) The historic location of the corner should be marked and the new addition should be clearly differentiated with materials, colors and construction joints; (2) Existing windows on historic structure should be restored, replacement windows should be simple wooden double-hung with no divided lights in order to differentiate from new design; (3) The new porch addition should be differentiated from the historic structure by color and construction joint/connection. Planning Commission recommends approval (6-0-1).

PDC 02-083 – District 3

(Continued from 2/18/03 – Item 11.2 and 3/4/03 – Item 11.5)

Ordinance No. 26865 was passed for publication.

Council approved the memorandum from Council Member Chavez, dated April 1, 2003, recommending Council: (A) approve the Planned Development Rezoning project plans, which currently incorporates the following: (1) Integration of the Historic Greeninger House into the proposal at the corner of S. Third and E. William Streets, (2) Five apartment units for City Year Corps members, (3) A consolidation of two separate EHC programs within the proposed “Our House” space, (4) An 850 square foot shared community room and classroom space, (5) Reduced massing through a 20% reduction in square footage to address community and historic concerns: (B) with the following direction to staff and the applicant: (1) Comply with the direction from Historic Landmarks Commission outlined in the Staff memo, (2) Limit the number of clients of the drop-in center to 45 per a day, (3) Relocation of the three ordinance-size palm trees to other sites as appropriate, (4) Incorporates the EHC Good Neighbor Plan and EHC Service Management Plan as part of Planned Development Permit to implement the Rezoning, (5) Incorporates a clause in the Housing Department funding agreements stipulating City approval for a new tenant in the event that City Year no longer utilizes the 5 apartments currently designed for their use: and (C) While recognizing the current agreements already in place: (1) City Year and EHC have entered into a mutually agreeable Memorandum of Understanding (MOU) outlining their collaboration on this project (finalized in 2001), (2) Agreements between the San Jose Redevelopment Agency (SJRA) and EHC reinforce the cooperative agreement between EHC and City Year, and also contain caveats insuring the property reverts to SJRA ownership should EHC no longer operate at this location.

11 PUBLIC HEARINGS

11.4 Public Hearing on conventional rezoning of 1409 Bird Avenue.

Recommendation: PUBLIC HEARING ON CONVENTIONAL REZONING of the property located at 1409 Bird Avenue, from CP Commercial Pedestrian District to CN Commercial Neighborhood District, to allow commercial use on a 3.90 gross acre site. (Mission Square Shopping Center Ltd., Owner). CEQA: Use of a Master EIR. Director of Planning, Building, and Code Enforcement recommends approval. No Planning Commission action required.

C03-011 - District 6

Ordinance No. 26863 was passed for publication.

11.5 Public Hearing on conforming prezoning of 15063 Union Avenue.

Recommendation: PUBLIC HEARING ON CONFORMING PREZONING of the property located at the west side of Union Avenue, approximately 80 feet northerly of Ronda Drive (15063 Union Avenue), from County to R-1-8 Residence Zoning District, to allow residential uses on a 0.47 gross acre site. (Kruk, Claire V. Trustee et al, Owner). CEQA: Exempt. Director of Planning, Building, and Code Enforcement recommends approval. No Planning Commission action required.

C 02-067 - District 9

Ordinance No. 26864 was passed for publication.

11.6 Public Hearing on appeal of a conditional use permit.

Recommendation: PUBLIC HEARING ON APPEAL of the Planning Commission's decision to approve a Conditional Use Permit for a project located at the northeast corner of Oakland Road and Commercial Street on a 1.39 gross acre site in the HI Heavy Industrial Zoning District, to allow the demolition of an existing gas station, associated service building, and an adjacent vehicle repair building, and to allow the construction of a new gas station and associated service station. (Nella Oil, Owner/Developer). CEQA: Exempt. Director of Planning, Building, and Code Enforcement recommends to uphold the decision of the Planning Commission to approve (5-1-1).

CP 99-057 – District 4

Resolution No. 71485 adopted.

The staff recommendation was approved with the addition of a one year compliance review of the proposed site.

11 PUBLIC HEARINGS

11.7 Public Hearing on appeal of a conditional use permit.

Recommendation: PUBLIC HEARING ON APPEAL of the Planning Commission's decision to approve, with special conditions, a Conditional Use Permit for a project located on the north side of Capitol Expressway approximately 200 feet easterly of Old Almaden Road (919 W. Capitol Expressway), on a 4.5 gross acre site in the CG Commercial Zoning District, to allow demolition of an existing automobile dealership (Capitol Ford) and construction of an approximately 65,200 square foot facility for automobile sales and service. (Simon and Phyllis Kleinman, Owners; Sonic Automotive Group, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building, and Code Enforcement recommends to uphold the decision of the Planning Commission to approve (6-0-1).

CP 02-026 – District 6

Resolution No. 71483 adopted.

Council approved the memorandum from Council Member Yeager, dated April 1, 2003, recommending Council approve the CUP for the demolition of existing buildings and construction of an approximately 65,200 square-foot automobile sales and service facility as conditioned by Staff and recommended by Planning Commission, but with the following modifications: (1) No trees will be required in the front setback; instead the applicant shall be directed to plant as equivalent number of trees within the required riparian setback; (2) The proposed riparian setback shall be increased to up to 50 feet in width near the northwest corner of the site as generally indicated in staff's attachment; the applicant should maximize this northern riparian setback as much as possible while maintaining the required turning radii for emergency access to the satisfaction of the Planning Director and Fire Chief; the proposed riparian setback shall be increased to 35 feet in width near the southwest corner of the site in a manner similar to the radius shown in the north; and the rest of the riparian setback shall remain at a 30 feet width.

- **Open Forum**

- (1) Daniel Garza spoke on community involvement issues.
- (2) Gregory Nicholls spoke on Municipal Code issues.

- **Adjournment**

The Council of the City of San José adjourned in memory of Araceli Martinez, employee in the Department of Public Works since 1997, mother of Mikeilah Araceli Quiroz, and wife of Rick Quiroz.

The Council of the City of San José adjourned at 8:47 P.M.